



Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

The instant case, seems to be sound in principle and in accordance with the weight of authority. However, there is a strong dissenting opinion based upon the construction of the statutes of that State and the dissenting judges also feel themselves bound by a previous case in that State.

LICENSE—MANDAMUS—POWER CONFERRED ON MAYOR TO ISSUE LICENSES NOT MANDATORY.—The city council passed an ordinance to regulate and license the business of selling jewelry. The ordinance did not in express terms confer any discretionary power upon the mayor, whose duty it was to issue all such licenses. The plaintiff applied to the defendant the mayor of the city, for a license to engage in the jewelry business. The plaintiff's application and bond complied with the requirements of the ordinance. The defendant refused to issue the license, on account of the plaintiff's previous irregularities in conducting his business. The plaintiff brought a mandamus proceeding against the defendant to compel him to issue such license, alleging that no discretionary powers in such case were vested in the defendant under the ordinance. *Held*, mandamus denied. *Samuels v. Couzens* (Mich.), 183 N. W. 925 (1921).

The power vested in a public officer to grant licenses, unless mandatory in terms, carries with it the right to exercise a reasonable discretion and a mandamus to compel such officer to issue a license will not lie. *People v. Mayor of City of Brooklyn*, 14 App. Div. 556, 43 N. Y. S. 1088 (1897); *People v. Grant*, 126 N. Y. 473, 27 N. E. 964 (1891). Mandamus will not lie to compel the performance of a power, the exercise of which lies in the discretion of the officer against whom the writ is sought, unless the action of the officer is capricious, arbitrary or unreasonable. *People v. State Racing Comm.*, 190 N. Y. 31, 82 N. E. 723 (1907); *State v. Board of Examiners*, 52 Mont. 91, 156 Pac. 124 (1916).

Where an ordinance provided that the keepers of public amusements are required to be licensed, and licenses shall be granted them by the mayor it was held to be mandatory and a writ of mandamus was granted to enforce the issuing of the license. *In re O'Rourke*, 9 Misc. Rep. 564, 30 N. Y. S. 375 (1894). Also where an act did not confer such broad authority, but simply provided that no person should exercise the vocation of booking emigrant passengers without a license from the mayor, a mandamus was granted compelling the mayor to issue such license upon compliance with certain requirements. *People v. Perry*, 13 Barb. (N. Y.) 206 (1852). Where an ordinance provided that the mayor may issue licenses for musical entertainments, the language was construed to be permissive and not mandatory and the mayor could use discretion. *People v. Thacher*, 42 Hun (N. Y.) 349 (1886).

However, it has been held that where public officers are empowered to do that which the public interests require to be done, the proper execution of the power may be insisted upon, though the statute conferring it be only permissive in its terms, as where the word "may" was construed to mean "must." *Mayor v. Furze*, 3 Hill (N. Y.) 612 (1842).

This question does not appear to have arisen in Virginia.